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BEFORE THE

Federal Communications Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)

MM Docket No. 93-94)

Scripps Howard)
Broadcasting Company)

File No. BRCT-910603KX)

For Renewal of License of)
Station WMAR-TV,)
Baltimore, Maryland)

and)

Four Jacks Broadcasting, Inc.)

File No. BPCT-910903KE)

For Construction Permit for a)
New Television Facility on)
Channel 2 at Baltimore,)
Maryland)To: The Honorable Richard L. Sippel
Administrative Law JudgeOPPOSITION TO MOTION FOR STAY

Four Jacks Broadcasting, Inc. ("Four Jacks"), by its attorneys, hereby opposes the Motion for Stay filed by Scripps Howard Broadcasting Company ("Scripps") on April 8, 1993. Scripps seeks to stay the procedural dates in this proceeding pending "final resolution" of its concurrently filed Petition for Certification of the Hearing Designation Order in this case. As set forth below, however, Scripps has come nowhere close to meeting the standards for the stay it seeks.

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1. Requests for stay of hearing proceedings are governed by the four-part test enunciated in Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921 (D.C. Cir. 1958), as interpreted in Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841 (1977). See Black Television Workshop of Los Angeles, Inc., 4 FCC Rcd 2663, 2664 (Rev. Bd. 1989), recon. dismissed, 4 FCC Rcd 2708 (Rev. Bd. 1989), petition for extension of stay dismissed, 4 FCC Rcd 3632 (Rev. Bd. 1989). Those criteria are: (1) the likelihood of irreparable injury to the petitioner in the absence of relief; (2) the injury to other parties in the proceeding that might follow if the relief is granted; (3) the injury to the public interest that might result if the petition is granted; and (4) the likelihood that a petitioner might prevail on the merits of its appeal.

2. Scripps has not even attempted to show that this four-part test is met. Scripps' only stated basis for a stay is its speculation that "[i]f the ALJ certifies the Application for Review to the Commission and the Commission grants Scripps Howard's requested relief, then there will be no need for a comparative hearing." Petition at 2. However, a general allegation such as this is insufficient to support a request for stay. See Orange Nine, Inc., 10 R.R.2d 1090 (1967).

3. Specifically, Scripps has not alleged that it would be irreparably injured by the denial of a stay. At the same time, however, Four Jacks is prepared to proceed forward expeditiously

toward a hearing, so it might commence operation on Channel 2 as promptly as possible if it is successful. Four Jacks thus would be severely prejudiced by any stay of the hearing. Even more importantly, a stay of this proceeding would severely harm the public, which is entitled to see as speedy as possible a resolution to this proceeding. As the Commission held in Orange Nine, Inc., supra, when considering a similar request for stay of a hearing proceeding,

petitioners have not shown that a denial of the stay would cause irreparable injury to themselves or the

Conclusion

Scripps has entirely failed to meet the stringent test for staying this comparative hearing. Accordingly, Scripps' Motion for Stay should be denied.

Respectfully submitted,

FOUR JACKS BROADCASTING, INC.

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Its Attorneys

Dated: April 15, 1993

CERTIFICATE OF SERVICE

I, Valerie A. Mack, a secretary in the law firm of Fisher, Wayland, Cooper and Leader, do hereby certify that true copies of the foregoing "OPPOSITION TO MOTION FOR STAY" were sent this 15th day of April, 1993, by first class United States mail, postage prepaid, to the following:

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